

104TH CONGRESS
2D SESSION

S. 2189

To enhance the administrative authority of the president of Southwestern Indian Polytechnic Institute, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 2, 1996

Mr. BINGAMAN (for himself and Mr. DOMENICI) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

To enhance the administrative authority of the president of Southwestern Indian Polytechnic Institute, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Southwestern Indian
5 Polytechnic Institute Administrative Systems Act of
6 1996”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds that—

9 (1) the provision of culturally sensitive experi-
10 ences and vocationally relevant curricula at South-

1 western Indian Polytechnic Institute is consistent
2 with the commitment of the Federal Government to
3 the fulfillment of treaty obligations to Indian tribes
4 through the principle of self-determination and the
5 use of Federal resources; and

6 (2) giving a greater degree of autonomy to
7 Southwestern Indian Polytechnic Institute, while
8 maintaining the institute as an integral part of the
9 Bureau of Indian Affairs, will facilitate the adminis-
10 tration and improvement of the academic programs
11 of the institute.

12 **SEC. 3. DEFINITIONS.**

13 For purposes of this Act the following definitions
14 shall apply:

15 (1) INSTITUTE.—The term “institute” means
16 the Southwestern Indian Polytechnic Institute, lo-
17 cated in Albuquerque, New Mexico.

18 (2) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

20 **SEC. 4. PERSONNEL MANAGEMENT.**

21 (a) INAPPLICABILITY OF CERTAIN CIVIL SERVICE
22 LAWS.—Chapters 51, 53, and 63 of title 5, United States
23 Code (relating to classification, pay, and leave, respec-
24 tively) and the provisions of such title relating to the ap-
25 pointment, performance evaluation, promotion, and re-

1 moval of civil service employees shall not apply to appli-
 2 cants for employment with, employees of, or positions in
 3 or under the institute.

4 (b) ALTERNATIVE PERSONNEL MANAGEMENT PRO-
 5 VISIONS.—

6 (1) IN GENERAL.—The president of the insti-
 7 tute shall by regulation prescribe such personnel
 8 management provisions as may be necessary, in
 9 order to ensure the effective administration of the
 10 institute, to replace the provisions of law that are in-
 11 applicable with respect to the institute by reason of
 12 subsection (a).

13 (2) PROCEDURAL REQUIREMENTS.—The regu-
 14 lations prescribed under this subsection shall—

15 (A) be prescribed by the president of the
 16 institute in consultation with the appropriate
 17 governing body of the institute;

18 (B) be subject to the requirements of sub-
 19 sections (b) through (e) of section 553 of title
 20 5, United States Code; and

21 (C) not take effect without the prior writ-
 22 ten approval of the Secretary.

23 (c) SPECIFIC SUBSTANTIVE REQUIREMENTS.—
 24 Under the regulations prescribed under this subsection—

1 (1) no rate of basic pay may, at any time, ex-
2 ceed—

3 (A) in the case of an employee who would
4 otherwise be subject to the General Schedule,
5 the maximum rate of basic pay then currently
6 payable for grade GS–15 of the General Sched-
7 ule (including any amount payable under sec-
8 tion 5304 of title 5, United States Code, or
9 other similar authority for the locality involved);
10 or

11 (B) in the case of an employee who would
12 otherwise be subject to subchapter IV of chap-
13 ter 53 of title 5, United States Code (relating
14 to prevailing rate systems), the maximum rate
15 of basic pay which (but for this section) would
16 then otherwise be currently payable under the
17 wage schedule covering such employee;

18 (2) the limitation under section 5307 of title 5,
19 United States Code (relating to limitation on certain
20 payments) shall apply, subject to such definitional
21 and other modifications as may be necessary in the
22 context of the alternative personnel management
23 provisions established under this section;

24 (3) procedures shall be established for the rapid
25 and equitable resolution of grievances;

1 (4) no institute employee may be discharged
2 without notice of the reasons therefor and oppor-
3 tunity for a hearing under procedures that comport
4 with the requirements of due process, except that
5 this paragraph shall not apply in the case of an em-
6 ployee serving a probationary or trial period under
7 an initial appointment; and

8 (5) institute employees serving for a period
9 specified in or determinable under an employment
10 agreement shall, except as otherwise provided in the
11 agreement, be notified at least 30 days before the
12 end of such period as to whether their employment
13 agreement will be renewed.

14 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion shall be considered to affect—

16 (1) the applicability of any provision of law pro-
17 viding for—

18 (A) equal employment opportunity;

19 (B) Indian preference; or

20 (C) veterans' preference; or

21 (2) the eligibility of any individual to partici-
22 pate in any retirement system, any program under
23 which any health insurance or life insurance is af-
24 forded, or any program under which unemployment

1 benefits are afforded, with respect to Federal em-
2 ployees.

3 (e) LABOR-MANAGEMENT PROVISIONS.—

4 (1) COLLECTIVE-BARGAINING AGREEMENTS.—

5 Any collective-bargaining agreement in effect on the
6 day before the effective date specified under sub-
7 section (f)(1) shall continue to be recognized by the
8 institute until altered or amended pursuant to law.

9 (2) EXCLUSIVE REPRESENTATIVE.—Nothing in
10 this Act shall affect the right of any labor organiza-
11 tion to be accorded (or to continue to be accorded)
12 recognition as the exclusive representative of any
13 unit of institute employees.

14 (3) OTHER PROVISIONS.—Matters made subject
15 to regulation under this section shall not be subject
16 to collective bargaining, except in the case of any
17 matter under chapter 63 of title 5, United States
18 Code (relating to leave).

19 (f) EFFECTIVE DATE.—

20 (1) ALTERNATIVE PERSONNEL MANAGEMENT
21 PROVISIONS.—The alternative personnel manage-
22 ment provisions under this section shall take effect
23 on such date as may be specified in the regulations,
24 except that such date may not be later than 1 year
25 after the date of the enactment of this Act.

1 (2) PROVISIONS MADE INAPPLICABLE BY THIS
 2 SECTION.—Subsection (a) shall take effect on the
 3 date specified under paragraph (1).

4 (g) APPLICABILITY.—

5 (1) IN GENERAL.—Except as otherwise pro-
 6 vided in this subsection, the alternative personnel
 7 management provisions under this section shall
 8 apply with respect to all applicants for employment
 9 with, all employees of, and all positions in or under
 10 the institute.

11 (2) CURRENT EMPLOYEES NOT COVERED EX-
 12 CEPT PURSUANT TO A VOLUNTARY ELECTION.—

13 (A) IN GENERAL.—An institute employee
 14 serving on the day before the effective date
 15 specified under subsection (f)(1) shall not be
 16 subject to the alternative personnel manage-
 17 ment provisions under this section (and shall
 18 instead, for all purposes, be treated in the same
 19 way as if this section had not been enacted,
 20 notwithstanding subsection (a)) unless, before
 21 the end of the 5-year period beginning on such
 22 effective date, such employee elects to be cov-
 23 ered by such provisions.

24 (B) PROCEDURES.—An election under this
 25 paragraph shall be made in such form and in

such manner as may be required under the regulations, and shall be irrevocable.

(3) TRANSITION PROVISIONS.—

(A) PROVISIONS RELATING TO ANNUAL AND SICK LEAVE.—Any individual who—

(i) makes an election under paragraph (2), or

(ii) on or after the effective date specified under subsection (f)(1), is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to an institute position from a noninstitute position with the Federal Government or the government of the District of Columbia,

shall be credited, for the purpose of the leave system provided under regulations prescribed under this section, with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment, as the case may be.

(B) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—

(i) ANNUAL LEAVE.—Upon termination of employment with the institute,

1 any annual leave remaining to the credit of
2 an individual within the purview of this
3 section shall be liquidated in accordance
4 with section 5551(a) and section 6306 of
5 title 5, United States Code, except that
6 leave earned or accrued under regulations
7 prescribed under this section shall not be
8 so liquidated.

9 (ii) SICK LEAVE.—Upon termination
10 of employment with the institute, any sick
11 leave remaining to the credit of an individ-
12 ual within the purview of this section shall
13 be creditable for civil service retirement
14 purposes in accordance with section
15 8339(m) of title 5, United States Code, ex-
16 cept that leave earned or accrued under
17 regulations prescribed under this section
18 shall not be so creditable.

19 (C) TRANSFER OF REMAINING LEAVE
20 UPON TRANSFER, PROMOTION, OR REEMPLOY-
21 MENT.—In the case of any institute employee
22 who is transferred, promoted, or reappointed,
23 without a break in service of 3 days or longer,
24 to a position in the Federal Government (or the
25 government of the District of Columbia) under

1 a different leave system, any remaining leave to
2 the credit of that individual earned or credited
3 under the regulations prescribed under this sec-
4 tion shall be transferred to such individual's
5 credit in the employing agency on an adjusted
6 basis in accordance with regulations which shall
7 be prescribed by the Office of Personnel Man-
8 agement.

9 (4) WORK-STUDY.—Nothing in this section
10 shall be considered to apply with respect to a work-
11 study student, as defined by the president of the in-
12 stitute in writing.

13 **SEC. 5. DELEGATION OF PROCUREMENT AUTHORITY.**

14 The Secretary shall, to the maximum extent consist-
15 ent with applicable law and subject to the availability of
16 appropriations therefor, delegate, to the president of the
17 institute, procurement and contracting authority with re-
18 spect to the conduct of the administrative functions of the
19 institute.

20 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated for fiscal
22 year 1997, and for each fiscal year thereafter—

23 (1) the amount of funds made available by ap-
24 propriations as operations funding for the adminis-
25 tration of the institute for fiscal year 1996; and

1 (2) such additional sums as may be necessary
2 for the operation of the institute pursuant to this
3 Act.

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